

Minutes



HFMA VAT Technical Sub-Committee

CIPFA, 77 Mansell Street, London E1 8AN

27 September 2018

MEMBERS PRESENT

Anthony Robson – Chair

Michael Creaton (T)

Colin Hall

Michael John

Paul Jones

Gareth Lewis

Rachel Owen

Gita Raja

Amanda Randall

Michael Sheils

Shelley St John

Sally Wilson

HFMA STAFF/GUESTS PRESENT

Mark Jenkins

VAT profession

Phil Simmons

Richard Lodge

HMRC

Senaka Attygalle (T)

Mike Barlow

Stuart Grant

Michele Rapier (T)

David Smith

David Webb

T=dialled in by telephone

1. Welcome, apologies for absence and membership issues

- 1.1 Anthony Robson welcomed everyone to the meeting, including Gareth Lewis (new member). Apologies were received from Edward Andrews, Gary Mincher, Steve Rourke and David Ogilvie.
- 1.2 Anthony Robson reported that Ian Dean and Sarah Hogan have had to step down from the Committee due to other commitments. The Committee thanked them for their contribution.

2. Minutes of the last meeting

The minutes of the meeting held on 24 May 2018 were considered an accurate record.

3. Terms of Reference

The Committee approved the Terms of Reference (ToR), which have been amended to reflect Anthony Robson's appointment as Chair. Anthony indicated that there may be further changes to the ToR in the light of conversations with the HMFA regarding governance arrangements of the Committee, and he will report back on developments at the next meeting.

AR

4. Matters arising

4.1 3.3 Error Correction and COS

Following discussions at the last meeting, it was formally agreed that disputes arising between HMRC and the Committee relating to assessment can be referred to HM Treasury, provided that they are first considered at Committee level prior to escalation. The Committee agreed that this item can now be discharged from the agenda.

MJ

4.2 3.6 Technical issues with the VAT Recovery Method – Partial Exemption Framework

HMRC confirmed that the revised Partial Exemption Framework has now been published. The Committee agreed that this item can now be discharged from the agenda.

MJ

4.3 3.7 NHS healthcare income via commercial entities

This item relates to the VAT implications of, for example, a private body engaging in providing NHS patient care where that activity was previously undertaken by the NHS and where there is subcontracting of some elements to an NHS body. Paul Jones reported that this issue is still under consideration, with the final position to be communicated to the Committee when ready.

PJ

4.4 **3.8 Agency staff**

David Smith reported that approval of HMRC draft guidance addressing the Committee's earlier concerns has been delayed due to some recent high profile issues necessitating director sign-off. The Committee will be informed when the guidance is ready for publication.

HMRC

4.5 **7. COS Heading 33 Library Services**

Paul Jones confirmed that he is still drafting additional content for this briefing, including examples, and hopes to submit a revised paper in time for the next meeting in January.

PJ

4.6 **7. VAT impact of commissioning support unit ('CSU') spin out of NHS England control**

Given that CSUs are now staying within the remit of NHS England, the Committee agreed that this item should be renamed 'Local Provider Framework' in order to capture issues around single versus multiple supply and the emergence of LPF2. Mike Barlow informed the Committee that he is due to meet with representatives from NHS England in order to progress these issues, and will report back when more information is known.

HMRC

4.7 **9. P22 National Framework**

Related to the P22 National Framework, Mike Barlow briefly outlined the submitted discussion paper which seeks to consider the impact if the easements for NHS bodies under COS Heading 35 were withdrawn. The Committee agreed to establish a sub-group (comprising members from the Committee only) to explore the issues relating to this heading; volunteers to contact Mark Jenkins in the first instance, who will then liaise with Mike Barlow and Paul Jones.

Ctee

4.8 **7. COS Heading 14 – Computer services supplied to the specification of the recipient**

Following meetings with various stakeholders, HMRC and HM Treasury are considering a proposal from the Tax Centre of Excellence which will simplify the heading considerably, and which looks likely to work for both government departments and the NHS. If agreed in principle, HMRC will circulate draft guidance to the Committee when ready. HMRC clarified, however, that any revised COS Heading 14 will only apply to new submissions from a date to be announced, with all previously submitted cases being dealt with under the old heading.

HMRC

4.9 **7. Making Tax Digital**

Anthony Robson is in the process of drafting a briefing for HMRC outlining the Committee's concerns (Committee members to send Anthony any items for inclusion in the briefing). Once ready, this will be emailed in the first instance to the MTD inbox and Mike Barlow. **AR/Cttee**

[Subsequent to the meeting, HMRC announced that it would delay the implementation of MTD for certain customers until 1 October 2019 to ensure there is sufficient time to test the service with them in the pilot before they are mandated to join; for more information see <https://www.gov.uk/government/publications/making-tax-digital/overview-of-making-tax-digital>]

4.10 **10.1 Legal services**

HMRC is still awaiting the Treasury's response to Ian Hanley's email, which outlined concerns that recovery of some legal services, previously allowed, is being restricted. **HMRC**

4.11 **8.1 NHS adjusting for bad debt relief (BDR)**

In the light of concerns that the advice given in item 8.1 of the HFMA VAT Committee minutes (24 May 2018) conflicts with that outlined in HMRC guidance, it was clarified that VAT claimed in one COS year should be reversed out in accordance with the statutory time limits if invoices have not been paid and not at the end of the COS year.

4.12 **8.2 Public health services**

The Committee noted the circulated letter which argues that public health activities should be classed as statutory non-business rather than an exempt supply of healthcare. Before formal submission to HMRC, it was agreed that Rachel Owen would review the letter and make any necessary amendments – once finalised, Mark Jenkins will forward to HMRC. **RO/MJ**

5 VAT briefs

There were no relevant VAT briefs for consideration at this meeting.

6 Consultations

There were no relevant consultations for consideration at this meeting.

7 Brexit

The Committee did not note any new issues.

8 Any other business

8.1 GP Federations setting up subsidiary companies

This relates to a recent query from the HFMA as to whether there is any guidance/support on VAT for GP federations setting up subsidiary companies. The

Committee agreed to send any comments on this issue to the HFMA (via Mark Jenkins).

Cttee

8.2 Construction industry scheme

Anthony Robson agreed to draft a short section for publication on TISonline to raise awareness of this scheme among NHS organisations.

AR

9 Date of next meetings

The meetings for 2019 are scheduled as follows:

- 24 January 2019
- 23 May 2019
- 26 September 2019

Item	Action	Allocation
4.1	Treasury role in disputes confirmed; discharge from agenda.	Mark Jenkins
4.2	Partial Exemption Framework published; discharge from agenda.	Mark Jenkins
4.3	Provide more information following further consultation.	Paul Jones
4.4	Draft guidance to be circulated once it has cleared HMRC governance process.	David Smith
4.5	Further revise briefing ahead of January meeting.	Paul Jones
4.6	Rename Local Provider Framework. Hold further meetings with NHS England.	Mike Barlow
4.7	Assemble working party to discuss COS 35 Heading.	Mike Barlow/Paul Jones/Mark Jenkins
4.8	Circulate revised COS Heading 14 Heading when ready.	David Smith
4.9	Send briefing to HMRC outlining Committee's concerns with MTD.	Anthony Robson
4.10	Send response to Committee once received from Treasury.	David Ogilvie
4.12	Send letter on public health services to HMRC once revised.	Rachel Owen/Mark Jenkins

8.1	Send thoughts on VAT arrangements for GP federations setting up subsidiary companies to HFMA.	Committee
8.2	Draft section on Construction Industry Scheme.	Anthony Robson